IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1719 OF 2003
IN
SUMMARY SUIT NO.1486 OF 2001

Manipal Finance Corporation Ltd. ..Plaintiffs

Vs.

Dwarkadas Velji Talpatriwala ..Defendant

Ms.Soma Singh i/b Vivek Sharma for the plaintiffs

None for the defendants

CORAM : S.U.KAMDAR, J
DATED : 7TH OCTOBER, 2005

P.C.:

1. Motion is for setting aside the order the order of dismissal of summons for judgment. Defendants are served. The learned counsel for the plaintiffs was directed yesterday to onceagain serve the defendants. He states that however defendants advocate has informed her that she is likely to take discharge and thus, not interested in attending the matter.

2. I have considered the matter on merits. I do not find much substance for condoning the

default of non-appearance. The learned counsel for the plaintiffs states that the lenient view should be taken on payment of cost. In that view of the fact that a party must not suffer for default of an advocate, I make motion absolute on plaintiffs paying a cost quantified at Rs.10,000/- to the Maharashtra State Legal Service Authority within 15 days from today. If amount is not paid, motion to stand dismissed. If amount is paid, plaintiffs to file precipe alongwith receipt of the same to the Prothonotary and Senior Master, High Court, Mumbai for further action.